IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CENTRAL EXCISE APPEAL NO.7 2006

The Commissioner of Central Excise ..Appellant.

V/s.

M/s.Godrej Soaps Ltd. ..Respondent.

Mr.K.R.Chaudhary for appellant.

Mr.Milind Vasudev with R.Ravindran for respondent.

CORAM : H.L.GOKHALE AND J.P.DEVADHAR, JJ.

DATED : 9TH NOVEMBER, 2006.

P.C. :-

Heard Mr.Chaudhary in support of the appeal. Mr.Milind Vasudev appears for the respondent. This appeal seeks to challenge the order passed by the CESTAT dated 24th February, 2005. The question before the CESTAT was restricted to the eligibility of the quantum of credit to be availed on furnace oil and other inputs by the respondents during the period April, 1998 to February, 1999. The submission of the respondents is that the issues are squarely covered under rule 57B of the Central Excise Rules,1944 which provides that notwithstsanding anything contained in Rule 57A, the manufacturer of final products shall be allowed to take credit of the specified duty on the goods mentioned in that Rule. Sub-clause (4) thereof

applies to the goods used for generation of electricity or steam specifically. In the present case, there is a finding of fact that the inputs were used in the generation of steam which is a final product. This being so, the respondent could not be restricted to credit limit of 10% ad valorem as agitated by the revenue under Rule 57A. Therefore, the Tribunal decided in favour of the respondents - assessee. The view taken by the Tribunal is in consonance with the Judgment of the Apex Court in the case of **Jindal Poly Films Ltd. V/s. Commissioner of Central Excise, Meerut-II** reported in **2006 (198) E.L.T. 3 (S.C.)** where these two Rules have been examined. This being the position, in our view, the Tribunal was right in coming to the conclusion that the credit cannot be restricted to 10% ad valorem only.

Appeal is dismissed.

(H.L.GOKHALE, J.)

(J.P.DEVADHAR, J.)